

AMENDED IN SENATE APRIL 23, 2009

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 360**

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**Introduced by Senator Yee**

February 25, 2009

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An act to amend Section 1276.4 of, and to add Section 1276.45 to, the Health and Safety Code, relating to direct care nurses.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as amended, Yee. Health facilities: direct care nurses.

Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would require each new direct care registered nursing hire to receive and complete an orientation to the hospital and patient care unit in which he or she will be working. It would preclude a nurse who has not completed this orientation from being assigned direct patient care, and would require observation of the nurse during the orientation by a direct care registered nurse. This bill would specify that, until the nurse completes orientation, he or she would not be counted as staff in computing the nurse-to-patient ratio. This bill would exempt a state

inpatient mental health hospital, a state developmental center, or a state veterans' home from ~~these~~ *those provisions of the bill requiring observation of the nurse during the orientation.*

Existing law allows the State Department of Public Health to take into consideration the unique nature of the University of California teaching hospitals and requires the department to coordinate with the Board of Registered Nursing in setting the nurse-to-patient ratios, as specified.

This bill would remove those provisions.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1276.4 of the Health and Safety Code is  
2     amended to read:  
3     1276.4. (a) By January 1, 2002, the State Department of Public  
4     Health shall adopt regulations that establish minimum, specific,  
5     and numerical licensed nurse-to-patient ratios by licensed nurse  
6     classification and by hospital unit for all health facilities licensed  
7     pursuant to subdivision (a), (b), or (f) of Section 1250. The  
8     department shall adopt these regulations in accordance with the  
9     department's licensing and certification regulations as stated in  
10    Sections 70053.2, 70215, and 70217 of Title 22 of the California  
11    Code of Regulations, and the professional and vocational  
12    regulations in Section 1443.5 of Title 16 of the California Code  
13    of Regulations. The department shall review these regulations five  
14    years after adoption and shall report to the Legislature regarding  
15    any proposed changes. Flexibility shall be considered by the  
16    department for rural general acute care hospitals in response to  
17    their special needs. As used in this subdivision, "hospital unit"  
18    means a critical care unit, burn unit, labor and delivery room,  
19    postanesthesia service area, emergency department, operating

1 room, pediatric unit, step-down/intermediate care unit, specialty  
2 care unit, telemetry unit, general medical care unit, subacute care  
3 unit, and transitional inpatient care unit. The regulation addressing  
4 the emergency department shall distinguish between regularly  
5 scheduled core staff licensed nurses and additional licensed nurses  
6 required to care for critical care patients in the emergency  
7 department.

8 (b) These ratios shall constitute the minimum number of  
9 registered and licensed nurses that shall be allocated. Additional  
10 staff shall be assigned in accordance with a documented patient  
11 classification system for determining nursing care requirements,  
12 including the severity of the illness, the need for specialized  
13 equipment and technology, the complexity of clinical judgment  
14 needed to design, implement, and evaluate the patient care plan  
15 and the ability for self-care, and the licensure of the personnel  
16 required for care.

17 (c) “Critical care unit” as used in this section means a unit that  
18 is established to safeguard and protect patients whose severity of  
19 medical conditions requires continuous monitoring, and complex  
20 intervention by licensed nurses.

21 (d) Requests for waivers to this section that do not jeopardize  
22 the health, safety, and well-being of patients affected and that are  
23 needed for increased operational efficiency may be granted by the  
24 state department to rural general acute care hospitals meeting the  
25 criteria set forth in Section 70059.1 of Title 22 of the California  
26 Code of Regulations.

27 (e) In case of conflict between this section and any provision  
28 or regulation defining the scope of nursing practice, the scope of  
29 practice provisions shall control.

30 (f) The regulations adopted by the department shall augment  
31 and not replace existing nurse-to-patient ratios that exist in  
32 regulation or law for the intensive care units, the neonatal intensive  
33 care units, or the operating room.

34 (g) The regulations adopted by the department shall not replace  
35 existing licensed staff-to-patient ratios for hospitals operated by  
36 the State Department of Mental Health.

37 (h) The regulations adopted by the department for health  
38 facilities licensed under subdivision (b) of Section 1250 that are  
39 not operated by the State Department of Mental Health shall take

1 into account the special needs of the patients served in the  
2 psychiatric units.

3 SEC. 2. Section 1276.45 is added to the Health and Safety  
4 Code, to read:

5 1276.45. (a) Each general acute care hospital, acute psychiatric  
6 hospital, and special hospital, as defined in subdivisions (a), (b),  
7 and (f) of Section 1250, shall ensure that all direct care registered  
8 nurses, including new hires, casual, per diem, temporary agency,  
9 registry, and traveler staff, shall receive and complete orientation  
10 to the hospital and patient care unit or clinical care area in which  
11 they will be working. All health facilities subject to this section  
12 shall adopt written policies and procedures for the training and  
13 orientation of nursing staff.

14 (b) (1) Every direct care registered nurse shall have current  
15 demonstrated and validated competency required for the specific  
16 individual needs of the patient population admitted to the unit or  
17 clinical area before being assigned to patient care for that unit or  
18 clinical area. In accordance with paragraph (2), current competency  
19 may only be demonstrated and validated by the direct observation  
20 of the orientee by another direct care registered nurse who has  
21 previously demonstrated current competency in the relevant patient  
22 population. Self-assessments are prohibited.

23 (2) The observing direct care registered nurse shall be required  
24 to directly observe and assess the orientee within the relevant  
25 clinical area and with the relevant patient population for a minimum  
26 of five standard nursing shifts in order to determine if the orientee  
27 displays the required knowledge, performance, and skills of patient  
28 assessment, patient care planning, education, intervention, patient  
29 evaluation, and patient advocacy to satisfactorily fulfill the duties  
30 required by the Nursing Practice Act (Chapter 6 (commencing  
31 with Section 2700) of Division 2 of the Business and Professions  
32 Code) and the Standards of Competent Performance.

33 (c) The written policies and procedures for the orientation of  
34 nursing staff shall require that all temporary personnel shall receive  
35 orientation and be subject to validation of demonstrated  
36 competency consistent with the requirements of this section and  
37 with Sections 70016.1 and 70214 of Title 22 of the California Code  
38 of Regulations.

39 (d) An orientee shall not be included in the calculation of the  
40 licensed nurse-to-patient ratio required by Section 1276.4.

1 (e) As used in this section, “orientee” means a direct care  
2 registered nurse who has not received and completed orientation  
3 to the hospital and patient care unit or clinical area and whose  
4 current competency has not been demonstrated and validated.

5 (f) ~~This section~~ *Paragraph (2) of subdivision (b)* shall not apply  
6 to a state inpatient mental health hospital, as defined in Section  
7 4100 of the Welfare and Institutions Code, a state developmental  
8 center, as defined in Section 4400 of the Welfare and Institutions  
9 Code, or a state veterans’ home, as defined in Chapter 1  
10 (commencing with Section 1010) of Division 5 of the Military and  
11 Veterans Code.

12 SEC. 3. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.